

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

RORY MOORE,
Plaintiff,
vs.
SAFETY HOLDINGS, INC. dba
SAMBASAFETY,
Defendant.

} CASE NO. 5:22-cv-00668-JGB-KKx

} STIPULATED PROTECTIVE
ORDER

1. INTRODUCTION

1.1 PURPOSES AND LIMITATIONS

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly, the parties hereby stipulate to and petition the Court to enter the following Stipulated Protective Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles. The parties further acknowledge, as set forth in Section 12.3, below, that this Stipulated Protective Order does not entitle them to file confidential information under seal; Civil Local Rule 79-5 sets forth the procedures that must be followed and the standards that will be applied when a party seeks permission from the court to file material under seal.

1.2 GOOD CAUSE STATEMENT

This action is likely to involve trade secrets, confidential policies and procedures, business contracts, consumer transaction information, personal identity

1 information or other valuable research, development, commercial, financial,
2 technical and/or proprietary information for which special protection from public
3 disclosure and from use for any purpose other than prosecution of this action is
4 warranted. Such confidential and proprietary materials and information consist of,
5 among other things, confidential business or financial information, information
6 regarding confidential business practices, pricing information, individual financial
7 and/or personal information, or other confidential research, development, or
8 commercial information otherwise generally unavailable to the public, or which may
9 be privileged or otherwise protected from disclosure under state or federal statutes,
10 court rules, case decisions, or common law. Accordingly, to expedite the flow of
11 information, to facilitate the prompt resolution of disputes over confidentiality of
12 discovery materials, to adequately protect information the parties are entitled to keep
13 confidential, to ensure that the parties are permitted reasonable necessary uses of
14 such material in preparation for and in the conduct of trial, to address their handling
15 at the end of the litigation, and serve the ends of justice, a protective order for such
16 information is justified in this matter. It is the intent of the parties that information
17 will not be designated as confidential for tactical reasons and that nothing be so
18 designated without a good faith belief that it has been maintained in a confidential,
19 non-public manner, and there is good cause why it should not be part of the public
20 record of this case.

21 **2. DEFINITIONS**

22 2.1 Action: this case is pending in the Central District of California Federal
23 Court, case number 5:22-cv-00668-JGB-KK.

24 2.2 Challenging Party: a Party or Non-Party that challenges the designation
25 of information or items under this Order.

26 2.3 “CONFIDENTIAL” Information or Items: information (regardless of
27 how it is generated, stored or maintained) or tangible things, including but not
28 limited to discovery responses, whether hardcopy or electronic, that contain

1 confidential and/or proprietary information, which qualify for protection under
2 Federal Rule of Civil Procedure 26(c), and as specified above in the Good Cause
3 Statement.

4 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as
5 their support staff).

6 2.5 Designating Party: a Party or Non-Party that designates information or
7 items that it produces in disclosures or in responses to discovery as
8 "CONFIDENTIAL."

9 2.6 Disclosure or Discovery Material: all items or information, regardless
10 of the medium or manner in which it is generated, stored, or maintained (including,
11 among other things, testimony, transcripts, and tangible things), that are produced or
12 generated in disclosures or responses to discovery in this matter.

13 2.7 Expert: a person with specialized knowledge or experience in a matter
14 pertinent to the litigation who has been retained by a Party or its counsel to serve as
15 an expert witness or as a consultant in this Action.

16 2.8 House Counsel: attorneys who are employees of a party to this Action.
17 House Counsel does not include Outside Counsel of Record or any other outside
18 counsel.

19 2.9 Non-Party: any natural person, partnership, corporation, association, or
20 other legal entity not named as a Party to this action.

21 2.10 Outside Counsel of Record: attorneys who are not employees of a party
22 to this Action but are retained to represent or advise a party to this Action and have
23 appeared in this Action on behalf of that party or are affiliated with a law firm which
24 has appeared on behalf of that party, and includes support staff.

25 2.11 Party: any party to this Action, including all of its officers, directors,
26 employees, consultants, retained experts, and Outside Counsel of Record (and their
27 support staffs).

28

1 2.12 Producing Party: a Party or Non-Party that produces Disclosure or
2 Discovery Material in this Action.

3 2.13 Professional Vendors: persons or entities that provide litigation support
4 services (e.g., photocopying, videotaping, translating, preparing exhibits or
5 demonstrations, and organizing, storing, or retrieving data in any form or medium)
6 and their employees and subcontractors.

7 2.14 Protected Material: any Disclosure or Discovery Material that is
8 designated as “CONFIDENTIAL.”

9 2.15 Receiving Party: a Party that receives Disclosure or Discovery Material
10 from a Producing Party.

11 **3. SCOPE**

12 The protections conferred by this Stipulation and Order cover not only
13 Protected Material (as defined above), but also (1) any information copied or
14 extracted from Protected Material; (2) all copies, excerpts, summaries, or
15 compilations of Protected Material; and (3) any testimony, conversations, or
16 presentations by Parties or their Counsel that might reveal Protected Material.

17 Any use of Protected Material at trial shall be governed by the orders of the
18 trial judge. This Order does not govern the use of Protected Material at trial.

19 **4. DURATION**

20 Even after final disposition of this litigation, the confidentiality obligations
21 imposed by this Order shall remain in effect until a Designating Party agrees
22 otherwise in writing or a court order otherwise directs. Final disposition shall be
23 deemed to be the later of (1) dismissal of all claims and defenses in this Action, with
24 or without prejudice; and (2) final judgment herein after the completion and
25 exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,
26 including the time limits for filing any motions or applications for extension of time
27 pursuant to applicable law.

28 **5. DESIGNATING PROTECTED MATERIAL**

1 5.1 Exercise of Restraint and Care in Designating Material for Protection.

2 Each Party or Non-Party that designates information or items for protection under
3 this Order must take care to limit any such designation to specific material that
4 qualifies under the appropriate standards. The Designating Party must designate for
5 protection only those parts of material, documents, items, or oral or written
6 communications that qualify so that other portions of the material, documents, items,
7 or communications for which protection is not warranted are not swept unjustifiably
8 within the ambit of this Order. Mass, indiscriminate, or routinized designations are
9 prohibited. Designations that are shown to be clearly unjustified or that have been
10 made for an improper purpose (e.g., to unnecessarily encumber the case
11 development process or to impose unnecessary expenses and burdens on other
12 parties) may expose the Designating Party to sanctions.

13 If it comes to a Designating Party's attention that information or items that it
14 designated for protection do not qualify for protection, that Designating Party must
15 promptly notify all other Parties that it is withdrawing the inapplicable designation.

16 “Confidential” materials shall include only such information as the
17 Designating Party in good faith contends should be protected pursuant to this
18 Protective Order on the grounds that the information is properly subject to protection
19 under existing California or federal law.

20 In making the designation of materials pursuant to this protective order, the
21 Designating Party shall give due consideration to whether the information contained
22 in the materials (1) has been produced, disclosed, or made available to the public in
23 the past, (2) has been published, communicated, or disseminated to others not
24 obligated to maintain the confidentiality of the information contained therein, (3) has
25 not been preserved or maintained in a manner calculated to preserve its
26 confidentiality, or (4) is available from a third party or commercial service that is
27 not obligated to maintain its confidentiality or privacy. The Designating Party should
28 also give due consideration to the age of the materials.

1 5.2 Manner and Timing of Designations. Except as otherwise provided in
2 this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise
3 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
4 under this Order must be clearly so designated before the material is disclosed or
5 produced.

6 Designation in conformity with this Order requires:

7 (a) for information in documentary form (e.g., paper or electronic
8 documents, but excluding transcripts of depositions or other pretrial or trial
9 proceedings), that the Producing Party affix at a minimum, the legend
10 “CONFIDENTIAL” (hereinafter “CONFIDENTIAL legend”), to each page that
11 contains protected material. If only a portion or portions of the material on a page
12 qualifies for protection, the Producing Party also must clearly identify the protected
13 portion(s) (e.g., by making appropriate markings in the margins).

14 A Party or Non-Party that makes original documents available for inspection
15 need not designate them for protection until after the inspecting Party has indicated
16 which documents it would like copied and produced. During the inspection and
17 before the designation, all of the material made available for inspection shall be
18 deemed “CONFIDENTIAL.” After the inspecting Party has identified the
19 documents it wants copied and produced, the Producing Party must determine which
20 documents, or portions thereof, qualify for protection under this Order. Then, before
21 producing the specified documents, the Producing Party must affix the
22 “CONFIDENTIAL legend” to each page that contains Protected Material. If only a
23 portion or portions of the material on a page qualifies for protection, the Producing
24 Party also must clearly identify the protected portion(s) (e.g., by making appropriate
25 markings in the margins).

26 (b) for testimony given in depositions that the Designating Party identify
27 the Disclosure or Discovery Material on the record, before the close of the deposition
28 all protected testimony.

1 (c) for information produced in some form other than documentary and for
2 any other tangible items, that the Producing Party affix in a prominent place on the
3 exterior of the container or containers in which the information is stored the legend
4 “CONFIDENTIAL.” If only a portion or portions of the information warrants
5 protection, the Producing Party, to the extent practicable, shall identify the protected
6 portion(s).

7 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
8 failure to designate qualified information or items does not, standing alone, waive
9 the Designating Party’s right to secure protection under this Order for such material.
10 Upon timely correction of a designation, the Receiving Party must make reasonable
11 efforts to assure that the material is treated in accordance with the provisions of this
12 Order.

13 **6. CHALLENGING CONFIDENTIALITY DESIGNATIONS**

14 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
15 designation of confidentiality at any time that is consistent with the Court’s
16 Scheduling Order.

17 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
18 resolution process (and, if necessary, file a discovery motion) under Local Rule 37.1
19 et seq.

20 6.3 The burden of persuasion in any such challenge proceeding shall be on
21 the Designating Party. Frivolous challenges, and those made for an improper
22 purpose (e.g., to harass or impose unnecessary expenses and burdens on other
23 parties) may expose the Challenging Party to sanctions. Unless the Designating Party
24 has waived or withdrawn the confidentiality designation, all parties shall continue to
25 afford the material in question the level of protection to which it is entitled under the
26 Producing Party’s designation until the Court rules on the challenge.

27 **7. ACCESS TO AND USE OF PROTECTED MATERIAL**

1 7.1 Basic Principles. A Receiving Party may use Protected Material that is
2 disclosed or produced by another Party or by a Non-Party in connection with this
3 Action only for prosecuting, defending, or attempting to settle this Action. Such
4 Protected Material may be disclosed only to the categories of persons and under the
5 conditions described in this Order. When the Action has been terminated, a
6 Receiving Party must comply with the provisions of section 13 below (FINAL
7 DISPOSITION).

8 Protected Material must be stored and maintained by a Receiving Party at a
9 location and in a secure manner that ensures that access is limited to the persons
10 authorized under this Order.

11 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless
12 otherwise ordered by the court or permitted in writing by the Designating Party, a
13 Receiving Party may disclose any information or item designated
14 “CONFIDENTIAL” only to:

15 (a) the Receiving Party’s Outside Counsel of Record in this Action, as well
16 as employees of said Outside Counsel of Record to whom it is reasonably necessary
17 to disclose the information for this Action;

18 (b) the officers, directors, and employees (including House Counsel) of the
19 Receiving Party to whom disclosure is reasonably necessary for this Action;

20 (c) Experts (as defined in this Order) of the Receiving Party to whom
21 disclosure is reasonably necessary for this Action and who have signed the
22 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

23 (d) the court and its personnel;

24 (e) court reporters and their staff;

25 (f) professional jury or trial consultants, mock jurors, and Professional
26 Vendors to whom disclosure is reasonably necessary for this Action and who have
27 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

28

1 (g) the author or recipient of a document containing the information or a
2 custodian or other person who otherwise possessed or knew the information;

3 (h) during their depositions, witnesses, and attorneys for witnesses, in the
4 Action to whom disclosure is reasonably necessary provided: (1) the deposing party
5 requests that the witness sign the form attached as Exhibit 1 hereto; and (2) they will
6 not be permitted to keep any confidential information unless they sign the
7 "Acknowledgment and Agreement to Be Bound" (Exhibit A), unless otherwise
8 agreed by the Designating Party or ordered by the court. Pages of transcribed
9 deposition testimony or exhibits to depositions that reveal Protected Material may
10 be separately bound by the court reporter and may not be disclosed to anyone except
11 as permitted under this Stipulated Protective Order;

12 (i) any juror(s) or alternative juror(s); and,

13 (j) any mediator or settlement officer, and their supporting personnel,
14 mutually agreed upon by any of the parties engaged in settlement discussions.

15 **8. PROTECTED MATERIAL SUBPOENAED OR ORDERED**

16 **PRODUCED IN OTHER LITIGATION**

17 If a Party is served with a subpoena or a court order issued in other litigation
18 that compels disclosure of any information or items designated in this Action as
19 "CONFIDENTIAL," that Party must:

20 (a) promptly notify in writing the Designating Party. Such notification
21 shall include a copy of the subpoena or court order;

22 (b) promptly notify in writing the party who caused the subpoena or order
23 to issue in the other litigation that some or all of the material covered by the subpoena
24 or order is subject to this Protective Order. Such notification shall include a copy of
25 this Stipulated Protective Order; and

26 (c) cooperate with respect to all reasonable procedures sought to be
27 pursued by the Designating Party whose Protected Material may be affected.

If the Designating Party timely seeks a protective order, the Party served with the subpoena or court order shall not produce any information designated in this action as “CONFIDENTIAL” before a determination by the court from which the subpoena or order issued, unless the Party has obtained the Designating Party’s permission. The Designating Party shall bear the burden and expense of seeking protection in that court of its confidential material and nothing in these provisions should be construed as authorizing or encouraging a Receiving Party in this Action to disobey a lawful directive from another court.

9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN THIS LITIGATION

(a) The terms of this Order are applicable to information produced by a Non-Party in this Action and designated as “CONFIDENTIAL.” Such information produced by Non-Parties in connection with this litigation is protected by the remedies and relief provided by this Order. Nothing in these provisions should be construed as prohibiting a Non-Party from seeking additional protections.

(b) In the event that a Party is required, by a valid discovery request, to produce a Non-Party’s confidential information in its possession, and the Party is subject to an agreement with the Non-Party not to produce the Non-Party’s confidential information, then the Party shall:

(1) promptly notify in writing the Requesting Party and the Non-Party that some or all of the information requested is subject to a confidentiality agreement with a Non-Party;

(2) promptly provide the Non-Party with a copy of the Stipulated Protective Order in this Action, the relevant discovery request(s), and a reasonably specific description of the information requested; and

(3) make the information requested available for inspection by the Non-Party, if requested.

(c) If the Non-Party fails to seek a protective order from this court within

1 14 days of receiving the notice and accompanying information, the Receiving Party
2 may produce the Non-Party's confidential information responsive to the discovery
3 request. If the Non-Party timely seeks a protective order, the Receiving Party shall
4 not produce any information in its possession or control that is subject to the
5 confidentiality agreement with the Non-Party before a determination by the court.
6 Absent a court order to the contrary, the Non-Party shall bear the burden and expense
7 of seeking protection in this court of its Protected Material.

8 **10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL**

9 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
10 Protected Material to any person or in any circumstance not authorized under this
11 Stipulated Protective Order, the Receiving Party must immediately (a) notify in
12 writing the Designating Party of the unauthorized disclosures, (b) use its best efforts
13 to retrieve all unauthorized copies of the Protected Material, (c) inform the person
14 or persons to whom unauthorized disclosures were made of all the terms of this
15 Order, and (d) request such person or persons to execute the "Acknowledgment and
16 Agreement to Be Bound" that is attached hereto as Exhibit A.

17 **11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE**
18 **PROTECTED MATERIAL**

19 When a Producing Party gives notice to Receiving Parties that certain
20 inadvertently produced material is subject to a claim of privilege or other protection,
21 the obligations of the Receiving Parties are those set forth in Federal Rule of Civil
Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure
22 may be established in an e-discovery order that provides for production without prior
23 privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the
24 parties reach an agreement on the effect of disclosure of a communication or
25 information covered by the attorney-client privilege or work product protection, the
26 parties may incorporate their agreement in the stipulated protective order submitted
27 to the court.

1 **12. MISCELLANEOUS**

2 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
 3 person to seek its modification by the Court in the future.

4 12.2 Right to Assert Other Objections. By stipulating to the entry of this
 5 Protective Order no Party waives any right it otherwise would have to object to
 6 disclosing or producing any information or item on any ground not addressed in this
 7 Stipulated Protective Order. Similarly, no Party waives any right to object on any
 8 ground to use in evidence of any of the material covered by this Protective Order.

9 12.3 Filing Protected Material. A Party that seeks to file under seal any
 10 Protected Material must comply with Civil Local Rule 79-5. Protected Material may
 11 only be filed under seal pursuant to a court order authorizing the sealing of the
 12 specific Protected Material at issue. If a Party's request to file Protected Material
 13 under seal is denied by the court, then the Receiving Party may file the information
 14 in the public record unless otherwise instructed by the court.

15 **13. FINAL DISPOSITION**

16 After the final disposition of this Action, as defined in paragraph 4, within 60
 17 days of a written request by the Designating Party, each Receiving Party must return
 18 all Protected Material to the Producing Party or destroy such material. As used in
 19 this subdivision, "all Protected Material" includes all copies, abstracts, compilations,
 20 summaries, and any other format reproducing or capturing any of the Protected
 21 Material. Whether the Protected Material is returned or destroyed, the Receiving
 22 Party must submit a written certification to the Producing Party (and, if not the same
 23 person or entity, to the Designating Party) by the 60 day deadline that (1) identifies
 24 (by category, where appropriate) all the Protected Material that was returned or
 25 destroyed and (2)affirms that the Receiving Party has not retained any copies,
 26 abstracts, compilations, summaries or any other format reproducing or capturing any
 27 of the Protected Material. Notwithstanding this provision, Counsel are entitled to
 28 retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing

1 transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert
2 reports, attorney work product, and consultant and expert work product, even if such
3 materials contain Protected Material. Any such archival copies that contain or
4 constitute Protected Material remain subject to this Protective Order as set forth in
5 Section 4 (DURATION).

6 14. Any violation of this Order may be punished by any and all appropriate
7 measures including, without limitation, contempt proceedings and/or monetary
8 sanctions.

9 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

10
11 DATED: October 27, 2022, THE CONSUMER JUSTICE LAW FIRM
12

13 By: s/James Ristvedt
14 James Ristvedt
15 Attorneys for Plaintiff
RORY MOORE

16 DATED: October 27, 2022, CARLSON & MESSER LLP
17

18 By: s/Martin Schannong
19 David J. Kaminski
20 Martin Schannong
Calvin W. Davis
21 Attorneys for Defendant
SAFETY HOLDINGS, INC.
22

23 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

24
25
26 DATED: October 28, 2022
27

28 Honorable Kenly Kiya Kato
United States Magistrate Judge

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, [full name], of [address], declare under penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order that was issued by the United States District Court for the Central District of California on [date] in the case *Safety Moore v. Safety Holdings, Inc. dba SambaSafety*, Case No. 5:22-cv-00668-KK. I agree to comply with and to be bound by all the terms of this Stipulated Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly assure that I will not disclose in any manner any information or item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Central District of California for the purpose of enforcing the terms of this Stipulated Protective Order, even if such enforcement proceedings occur after termination of this action. I hereby appoint _____ [print or type full name] of _____ [print or type full address and telephone number] as my California agent for service of process in connection with this action or any proceedings related to enforcement of this Stipulated Protective Order.

Date:

City and State where signed:

Printed name:

Signature:

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